

# HOUSE BILL REPORT

## SSB 6240

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### As Passed House - Amended:

March 2, 2012

**Title:** An act relating to orders of disposition for juveniles.

**Brief Description:** Modifying provisions relating to orders of disposition for juveniles.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kline, Carrell and Harper).

### Brief History:

#### Committee Activity:

Early Learning & Human Services: 2/20/12, 2/21/12 [DPA].

#### Floor Activity:

Passed House - Amended: 3/2/12, 97-0.

### Brief Summary of Substitute Bill (As Amended by House)

- Permits a juvenile to request a deferred disposition less than two weeks before trial if the juvenile demonstrates good cause for the request.
- Permits the court to vacate a conviction entered pursuant to a deferred disposition if the juvenile has not paid restitution in full but has made good faith efforts to comply with restitution requirements.
- Requires the court to set an administrative hearing to seal a successful deferred disposition if restitution has been paid in full and the court has vacated the conviction entered under the deferred disposition proceeding.
- Requires the court to grant a motion to seal a deferred disposition completed before the effective date of this act if the person making the motion is 18 years of age or older and restitution has been paid in full.
- Clarifies that dispositions for two or more offenses in a single disposition order are to be imposed consecutively, and that periods of community supervision imposed in multiple disposition orders are to be imposed concurrently while multiple disposition orders of detention are imposed consecutively within certain limits.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Makes technical changes to the standard-range disposition grid in the juvenile justice code for clarity and to reflect recent changes in statute, which eliminates the distinction in the juvenile justice code between levels of Third Degree Malicious Mischief offenses based upon the value of the damage caused.

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## HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives Kagi, Chair; Roberts, Vice Chair; Hope, Assistant Ranking Minority Member; Dickerson, Goodman and Orwall.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Johnson and Overstreet.

**Staff:** Linda Merelle (786-7092).

### **Background:**

#### Deferred Disposition.

A deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition requires a juvenile to complete certain conditions set out by the court and probation, including any restitution payment, in exchange for having the charges dismissed. A disposition is the juvenile court equivalent of sentencing in adult court. The juvenile court may continue a case for disposition if a motion is made at least 14 days prior to commencement of trial.

A juvenile is eligible for a deferred disposition unless he or she:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony; or
- has two or more prior adjudications.

If a court grants a deferred disposition, the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition (i.e., sentencing) if the juvenile fails to comply with the terms of supervision; and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. Payment of restitution must be a condition of supervision. The juvenile typically has one year to complete the conditions but may have up to two years. Prior to the expiration of the period of supervision, the prosecutor or the

juvenile court community supervision counselor may file a written motion to revoke the deferred disposition. If the court determines, after a hearing, that the juvenile has failed to complete the conditions, the court must enter an order of disposition.

If the court finds that the juvenile offender has successfully complied with the conditions of his or her supervision, including payment of restitution, the conviction is vacated and the court dismisses the case with prejudice. However, if the juvenile has a conviction for Animal Cruelty in the first degree, his or her conviction is not vacated.

#### Sealing of Deferred Dispositions.

A juvenile's records of a deferred disposition must be sealed within 30 days after the juvenile's eighteenth birthday if:

- the conditions of the deferred disposition have been completed;
- the deferred disposition has been vacated and the case dismissed with prejudice; and
- the juvenile does not have any pending charges.

If the juvenile is already 18 years old at the time that the deferred disposition is vacated, he or she may request that the court seal his or her records, and that request must be granted. Records sealed under this provision have the same legal status as records sealed under other laws governing records related to juvenile offenses.

#### **Summary of Amended Bill:**

##### Motion for Deferred Disposition.

If a motion for a deferred disposition is made less than 14 days but prior to commencement of the trial, the court may waive the 14-day statutory requirement for good cause. A juvenile who agrees to a deferral of disposition must acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

##### Restitution.

At the conclusion of the deferral period, if restitution has not been paid in full, the court may still vacate the conviction if the court is satisfied the juvenile has made a good faith effort to pay. If the court vacates the juvenile's conviction, and restitution is still owed, the court must enter an order establishing the amount of restitution due and the terms and conditions of payment, which may include a payment plan extending up to 10 years. The juvenile may remain under the court's jurisdiction for a maximum of 10 years after the juvenile turns 18 years of age. Prior to the expiration of the initial 10-year period, the juvenile court may extend a judgment for restitution an additional 10 years.

##### Sealing Deferred Dispositions.

If a juvenile successfully completes a deferred disposition, has paid restitution in full, and the court vacates the conviction, the court must set an administrative hearing date on which the

court must sign an order sealing the deferred disposition. The date must be within 30 days after the juvenile turns 18 years of age, and the juvenile does not have to appear in court.

If a person has already successfully completed a deferred disposition before the effective date of this act, the court must grant that person's motion to seal if the person is 18 years of age or older at the time that he or she makes the motion and restitution has been paid in full.

#### Consecutive Dispositions.

The dispositions for two or more offenses in a single disposition order are consecutive. When the dispositions for two or more offenses are contained in separate disposition orders, multiple orders of detention imposed are consecutive, though not to exceed certain limits, but the terms of community supervision are concurrent.

#### Disposition Grid.

The juvenile standard-range disposition grid is rearranged for ease of use and visual clarity. The grid is also revised to reflect the Legislature's elimination of two levels of seriousness for the offense of Malicious Mischief in the third degree, based upon the value of the damage caused.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) This bill allows the court to dismiss a deferred disposition even if the restitution has not been fully paid. The disposition then turns into a civil obligation. A problem has occurred in deferred disposition cases where the juvenile has been making a good faith effort to pay off the restitution. Once the matter becomes a civil obligation, it is just like any other financial obligation. If the juvenile defaults, the burden is on the victim to pursue it. It is not a perfect solution, but it is much better than the situation under the current law. Even if the charge is dismissed, the victim would have a recourse that does not exist now. It is fairer to the victim's family to give that opportunity. If there is a juvenile who is doing everything that the court has asked him or her to do, it is appropriate that the court has this flexibility. Having this provision in statute will encourage uniform practice across the state.

(Opposed) None.

**Persons Testifying:** Senator Regala, prime sponsor; Tom McBride, Washington Association of Prosecuting Attorneys; and Tom Parker, Superior Court Judges Association.

**Persons Signed In To Testify But Not Testifying:** None.